

ORIGINAL

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA

DAVID B. CORNEAL AND
SANDRA Y. CORNEAL

FILED
HARRISBURG, PA CASE NO. 1:00-CV-1192

vs.

JUN 6 4 2003 (JUDGE RAMBO)

JACKSON TOWNSHIP, et al. MARY E. D'ANDREA, CLERK
per 3/15 JURY TRIAL DEMANDED
Deputy Clerk

**DEFENDANTS' RESPONSE TO PLAINTIFFS'
"MOTION TO STRIKE DEFENDANTS' RESPONSE TO PLAINTIFFS'
ADDITIONAL UNDISPUTED MATERIAL FACTS IN OPPOSITION TO
SUMMARY JUDGMENT"**

NOW COMES Defendants, Jackson Township, W. Thomas Wilson, Michael Yoder, Ralph Weiler, Barry Parks, David Van Dommelen and Ann I. Wirth by and through their authorized counsel of record, Mayers, Mennies & Sherr, LLP, and in response to the Motion to Strike Defendants' Response to Plaintiffs' Additional Undisputed Material Facts in Opposition to Summary Judgment states as follows:

1. Admitted. It is admitted that this Court entered an Order dated March 15, 2003. Plaintiffs' characterization of the Order is denied.
2. Admitted.
3. Admitted.
4. Admitted.
5. Denied as stated. In its entirety, L.R. 56.1 entitled Motions for Summary Judgment states a follows:

A Motion for Summary Judgment filed pursuant to Fed. R.Civ.P. 56 shall be accompanied by a separate, short and concise statement of the material facts, in numbered paragraphs, as to which the moving party contends there is no genuine issue to be tried. The papers opposing a Motion for Summary Judgment shall include a separate, short and concise statement of the material facts, responding to the numbered paragraphs set forth in the statement requiring the foregoing paragraph, as to which it is contended that there exists a genuine issue to be tried. Statements of material facts in support of, or in opposition to, a motion shall include references to the parts of the record that support the statements. All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party.

6. Denied. To the contrary, references unless otherwise designated are the same reference which purportedly support the assertion. Most of the denials are denials of Plaintiffs' characterization of the facts and not necessarily the facts themselves.
7. As Defendants are denying the characterization of the Plaintiffs, there are no additional references. Moreover, the positive assertions of facts made by Defendants are all supported by appropriate references in the record.

NEW MATTER

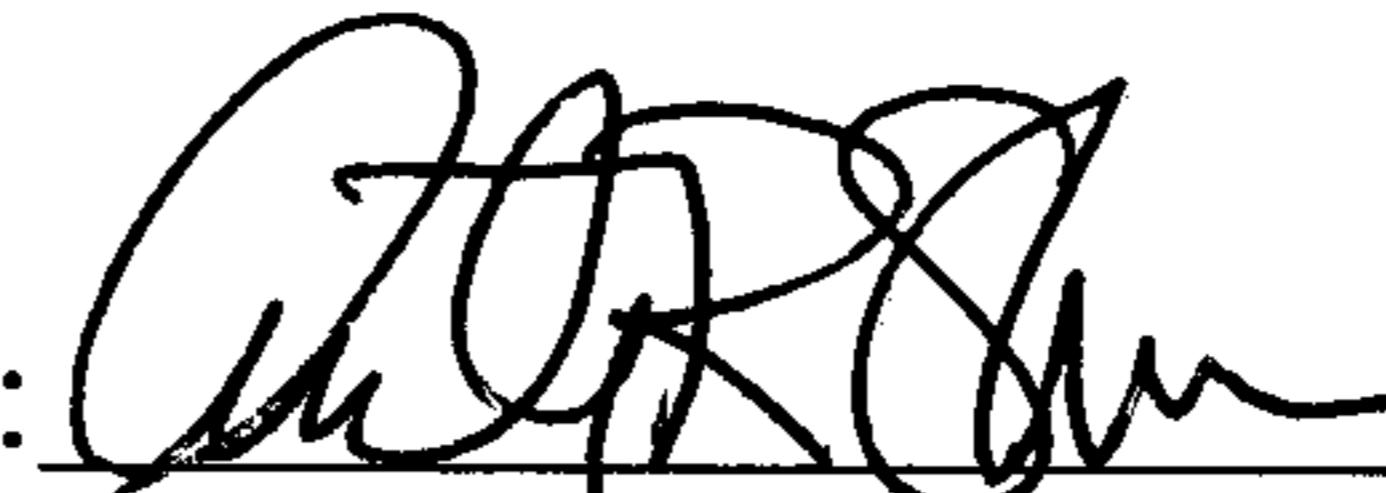
8. Defendants' answers to Paragraphs 1 through 7 of Plaintiffs' Motion to Strike are incorporated as though fully set forth herein by reference.
9. There is no available relief under the Local Rules for the striking of responses to Plaintiffs' Additional Material Facts, and therefore the relief should be denied.
10. Where no reference was given to a denial in the response, the reference should be made to the original reference as given by Plaintiffs.

WHEREFORE, Defendants, Jackson Township, W. Thomas Wilson, Michael Yoder, Ralph Weiler, Barry Parks, David Van Dommelen and Ann I. Wirth respectfully request that Plaintiffs' Motion be denied.

Respectfully submitted,

MAYERS, MENNIES & SHERR, LLP

BY:



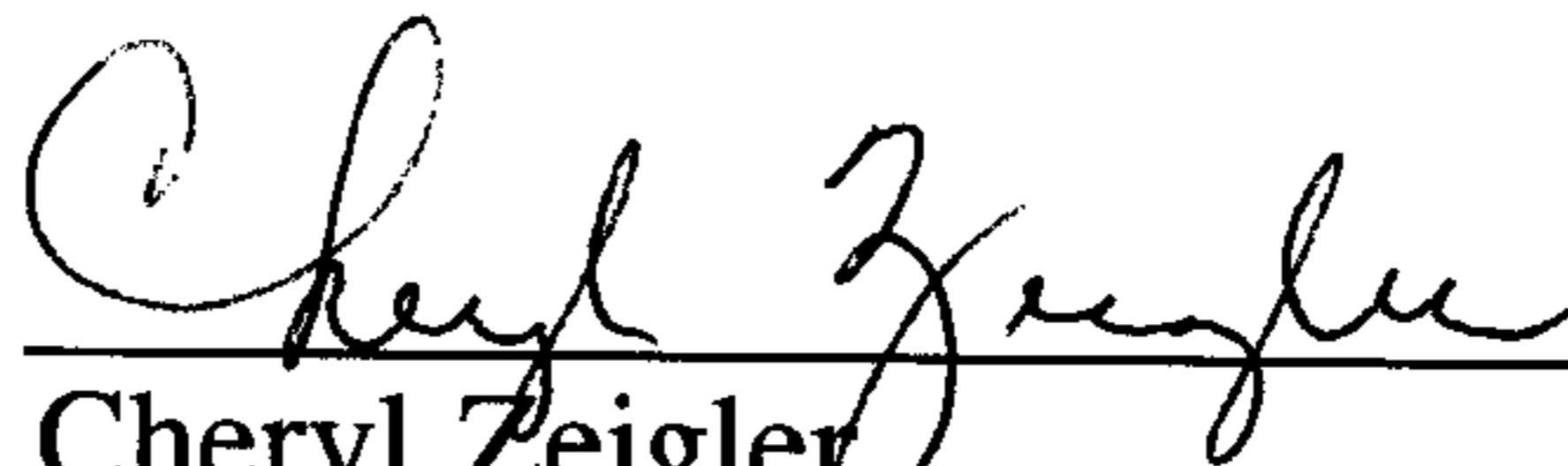
ANTHONY R. SHERR, ESQUIRE
Attorney for Defendants

3031 Walton Road, Building A
Suite 330, P.O. Box 1547
Blue Bell, PA 19422-0440
(610) 825-0300
Fax (610) 825-6555

CERTIFICATE OF SERVICE

I, Cheryl Zeigler, hereby certify that on the 3rd day of June 2003, a true and correct copy of Defendants, Jackson Township, W. Thomas Wilson, Michael Yoder, Ralph Weiler, Barry Parks, David Van Dommelen and Ann I. Wirth's Response to Plaintiffs' "Motion to Strike Defendants' Response to Plaintiffs' Additional Undisputed Material Facts in Opposition to Summary Judgment", was served by first class regular mail, postage prepaid upon the following:

Bridget E. Montgomery, Esquire
Adam M. Shienvold, Esquire
Eckert, Seamans Cherin & Mellott
213 Market Street, 8th Floor
Harrisburg, PA 17101

BY: 
Cheryl Zeigler
Legal Assistant to Anthony R. Sherr